

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

SADDLEBACK VALLEY UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2013120331

ORDER GRANTING MOTION TO
DISMISS ISSUE

On December 9, 2013, Parent on behalf of Student (Student) filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings (OAH) naming the Saddleback Valley Unified School District (District). Student's complaint contains 16 issues, with 15 of the 16 issues alleging procedural and substantive violations under the Individuals with Disabilities Education Act (IDEA). Student's Issue 16 alleges violations under Title V of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq. (Section 504)).

On December 20, 2013, District filed a motion to dismiss Student's Issue 16 brought under Section 504 because OAH does not have jurisdiction over alleged Section 504 violations. No response or opposition has been received from Student.

APPLICABLE LAW

The purpose of IDEA (20 U.S.C. § 1400 et. seq.) is to "ensure that all children with disabilities have available to them a free appropriate public education" (FAPE), and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child." (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a FAPE to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

DISCUSSION

While Student's complaint alleges that District denied him a FAPE under the IDEA through its actions and/or omissions, Student's Issue 16 alleges various violations under Section 504. OAH does not have jurisdiction to hear claims brought under Section 504. Accordingly, District's motion to dismiss Issue 16 regarding alleged violations under Section 504 must be granted.

ORDER

1. District's motion to dismiss Issue 16 in Student's complaint relating to alleged violations under Section 504 is granted.
2. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

Dated: December 30, 2013

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings